

REMARKS

Reconsideration of the application, as amended, is respectfully requested in view of the following remarks.

A brief description of the drawings has been added to the specification.

Support for the amendments can be found in the application in Example 1, page 25, paragraphs 3 and 4, in combination with paragraphs 5 and 6 of page 15 and paragraphs 1, 2 and 3 of page 16. Applicants reserve the right to present subject matter eliminated by these amendments in a continuing application.

The invention is directed to a very specific type of whey protein hydrolysate, which protein hydrolysate upon consumption is to stimulate the cellular release of peptides of both the GLP and the CCK type. The Office points to no teaching of this hydrolysate by Reimer et al.

As stated in the present Summary of the Invention (page 7, paragraph 4), it is believed that the whey protein hydrolysates are particularly effective in the methods of the present invention because they are able to release both peptides, one of which is involved in controlling the levels of glucose and the other one of which is involved in digestion.

The invention defined by the amended set of claims thus is directed to use of the specific whey protein hydrolysate of the invention to induce the cellular release of glucagon-like-peptides and cholecystokinins and therefore very effectively to be used for improving or preventing decline in mental performance and/or for providing a sustained feeling of energy and/or for maintaining or providing a feeling of well-being during the postprandial period.

The Office has pointed to no reference to the specific types of whey protein hydrolysates that are the subject of the present invention in either of the cited documents. It is submitted that the combination of documents could not indicate to a person having ordinary skill in the art the subject matter as defined by the presently amended claims. It is therefore believed that the claims meet the requirements of novelty and non-obviousness.

Applicants wish to emphasize that the mere suggestion in Reimer et al. to further hydrolyse whey protein hydrolysate in order to prepare a hypoallergenic whey protein hydrolysate would not at all be understood by the skilled artisan that any further hydrolysate, such as for example those taught by O'Callaghan et al., can suitably be used in accordance with the method of Reimer et al. Moreover, it is submitted that, given Reimer et al's focus on CGMP, the skilled person would realize that further hydrolysis of the whey protein hydrolysate of Reimer et al. may easily reduce or eliminate the GLP releasing effect thereof if significant fractions of CGMP are broken down. Since the teachings of O'Callaghan et al. concern infant and dietetic formulae which aim to provide the nutritional profile of human milk, the skilled artisan would not have been led to modify Reimer et al. based on the O'Callaghan et al. teachings as the Office has asserted.

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



Gerard J. McGowan, Jr.
Registration No. 29,412
Attorney for Applicant(s)

GJM/mpk
(201) 894-2297